United Nations S/AC.49/2013/21

Security Council

Distr.: General
16 September 2013
English
Original: Spanish

Security Council Committee established pursuant to resolution 1718 (2006)

Note verbale dated 13 September 2013 from the Permanent Mission of Colombia to the United Nations addressed to the Chair of the Committee

The Permanent Mission of Colombia to the United Nations presents its compliments to the Chair of the Security Council Committee established pursuant to resolution 1718 (2006) and has the honour to refer to note SAC/4/13(05) of 22 March 2013. In addition, the Permanent Mission of Colombia has the honour to transmit the updated information requested in the above-mentioned note, in accordance with the relevant provisions of Security Council resolution 2094 (2013) (see annex).

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Annex to the note verbale dated 13 September 2013 from the Permanent Mission of Colombia to the United Nations addressed to the Chair of the Committee

National report of Colombia concerning Security Council resolution 2094 (2013)

Ministry of Foreign Affairs, Republic of Colombia

Listed below are the national measures adopted by Colombia to implement Security Council resolution 2094 (2013) concerning the Democratic People's Republic of Korea. The list was compiled on the basis of information received from the relevant national institutions.

Ministry of Defence

- The national navy ordered the inspection of all cargo originating in or destined for the Democratic People's Republic of Korea where information indicates that it contains items prohibited by resolutions 1718 (2006), 1874 (2009), 2087 (2013) and 2094 (2013).
- The national navy ordered the communication of any information on transfers of aircraft or vessels of the Democratic People's Republic of Korea to other companies that may have been undertaken in order to evade the sanctions imposed in the resolutions concerning the Democratic People's Republic of Korea.
- The naval forces were instructed to check the web page of the United Nations Security Council Committee containing the consolidated lists of entities and individuals subject to asset freezing, as well as the items that are prohibited from being imported or exported from and to the Democratic People's Republic of Korea.
- The operational units responsible for registration and control were instructed to prevent the supply, sale or transfer of any item that could contribute to the nuclear and ballistic missile programme of the Democratic People's Republic of Korea.

Migration Colombia

- The special administrative unit Migration Colombia sent the information below to the regional directors with the instruction to disseminate and raise awareness of it:

  (i) Adopt appropriate measures to ensure effective migration control of passengers and crew members coming from the Democratic People's Republic of Korea, in order to raise the alert when an irregularity is detected (possession of large sums of money);

  (ii) Exercise enhanced vigilance over diplomatic personnel of the Democratic People's Republic of Korea so as to prevent such individuals from contributing to that Republic's nuclear or ballistic missile programmes;

(iii) Carefully and rigorously inspect vessels, aircraft and other means of transport coming from the Democratic People's Republic of Korea;

(iv) Be on the alert for cases in which it is known that any item determined to be able to contribute to nuclear or ballistic missile programmes or to other prohibited activities is being supplied, sold, used or transferred to or from the Democratic People's Republic of Korea through Colombian territory or by Colombian nationals;

(v) Take account of the travel ban contained in annex I* of resolution 2094 (2013).

- The regional directors were requested to implement and disseminate the measures required through their subordinates in each migration control post, and it was recommended that they should strictly implement the activities and procedures forming part of the migration control process in relation to passengers and crew members in accordance with resolution 2094 (2013).

- After the information was disseminated, the necessary instructions were generated in the system concerning the travel ban imposed on the following nationals of the Democratic People's Republic of Korea:

1. YO'N CHO'NG NAM

Description: Chief Representative for the Korea Mining Development Trading Corporation (KOMID). The KOMID was designated by the Committee in April 2009 and is the primary arms dealer Democratic People's Republic of Korea and main exporter of goods and equipment related to ballistic missiles and conventional weapons.

2. KO CH'O'L-CHAE

Description: Deputy Chief Representative for the Korea Mining Development Trading Corporation (KOMID). The KOMID was designated by the Committee in April 2009 and is the primary arms dealer of the Democratic People's Republic of Korea and main exporter of goods and equipment related to ballistic missiles and conventional weapons.

3. MUN CHO'NG-CH'O'L

Description: Mun Cho'ng-Ch'o'l is a Tanchon Commercial Bank (TCB) official. In this capacity he has facilitated transactions for TCB. Tanchon was designated by the Committee in April 2009 and is the main financial entity of the Democratic People's Republic of Korea for sales of conventional arms, ballistic missiles, and goods related to the assembly and manufacture of such weapons.

Ministry of Mines and Energy

- The Ministry informed officials responsible for procedures relating to licensing, monitoring and control of radioactive materials in Colombia that they are expressly prohibited from authorizing the entry and/or removal of radioactive and nuclear materials from or to the Democratic People's Republic of Korea.

* Translator's note: Spanish reads annex II but this is an error.

Directorate of National Taxes and Customs:

- The Directorate's Foreign Trade Branch sent memorandum 000204, dated 29 May 2013, to the following individuals in that entity:

  (a) Customs section directors;

  (b) Tax and customs section directors;

  (c) Tax and customs branch directors;

  (d) Customs operations division heads;

  (e) Audit management division heads;

  (f) Operational control/fiscal and customs police (POLFA) division heads;

  (g) Internal working group (GIT) coordinators;

  (h) Officials working at ports, airports and border crossings.

  The memorandum read as follows:

- By means of resolution 2094 (2013), the United Nations Security Council, as a result of the nuclear test conducted by the Democratic People's Republic of Korea on 12 February 2013, decided that Member States shall impose sanctions relating to that country's nuclear programme, including:

  (i) Inspecting all cargo within or transiting through their territory that has originated in the Democratic People's Republic of Korea, or that is destined for the Democratic People's Republic of Korea, or has been brokered or facilitated by the Democratic People's Republic of Korea or its nationals, or by individuals or entities acting on their behalf, if the State concerned has credible information that provides reasonable grounds to believe the cargo contains items the supply, sale, transfer or export of which is prohibited by resolutions 1718 (2006), 1874 (2009), 2087 (2013) or 2094 (2013), for the purpose of ensuring strict implementation of those provisions.

  (ii) Preventing the supply, sale or transfer of the items, materials, equipment, goods and technology listed in annexes III and IV of resolution 2094 (2013).

Bank of the Republic

- In accordance with the legislation[1] in force concerning the prevention, detection and control of money-laundering and the financing of terrorism, the

[1] Decree No. 663 of 2 April 1993, which updates the Organic Statute of the Financial System and amends its titles and numbering; Act No. 190 of 1995, which issues regulations designed to preserve normality in the public administration and establishes measures with the aim of eradicating administrative corruption; Act No. 526 of 1999, which creates the Information and Financial Analysis Unit; Act No. 599 of 24 July 2000, which promulgates the Penal Code; Act No. 747 of 19 July 2002, which reforms and supplements the Penal Code (Act No. 599 of 2000), establishes the crime of human trafficking and issues other regulations; Act No. 1121 of 29 December 2006, which issues regulations for the prevention, detection, investigation and punishment of the financing of terrorism and other provisions; external circular No. 007 of 1996, as amended (basic legislative circular); the Forty Recommendations of the Financial Action Task Force, and the Nine Special Recommendations; Statement of principles of the Basel Committee (1988); Security Council resolution 1373 (2001); the Wolfsberg Group.

Bank of the Republic has established a system for managing money-laundering and terrorist financing risk that enables it to establish policies, procedures and controls in order to minimize exposure to the risk of money-laundering and financing of terrorism in its operations with third parties or in the performance of its own functions.

- As a method of control designed to ensure compliance with the Security Council resolutions, the Bank of the Republic has created a preventive software tool (watch list[2]) managed by the Analysis and Operations Unit,[3] which contains information about individuals with a criminal record or apparent links with illegal activities, according to sources such as the international lists of alleged drug traffickers and terrorists published by the United Nations by means of Security Council resolutions and by the Office of Foreign Assets Control.

- The watch list is checked before a contract is signed or before any transaction that involves making or receiving cash payments, handing over or transferring goods or fulfilling other financial obligations. Where the person is a natural person, their name is checked, together with their identity card, immigration document or alternative document; where the person is a juridical person, its registered name and tax identification number are checked.

- The watch list must be checked when completing foreign exchange transactions requiring registration with the Bank of the Republic (foreign investments in Colombia; Colombian financial investments abroad; registration of clearing accounts[4]).

- For other foreign exchange transactions which, under article 4 of Decree No. 1735 and article 7 of external resolution No. 8 of 2000, must be channelled through the foreign exchange market[5] (foreign exchange brokers[6]

[2] The list has been updated in accordance with Security Council resolution 2094 (2013).

[3] This Unit is attached to the Operational Risk Management Division of the Bank of the Republic. Its main function is to foster an environment within the Bank that is conducive to the prevention and control of money-laundering in its operations, monitor the financial flows in which the Bank is involved and discourage third parties from using the Bank for money-laundering activities.

[4] Bank accounts in foreign currency opened by residents (art. 2 of Decree No. 1735 of 1993) in financial entities abroad. As soon as a foreign exchange transaction that must be channelled through the foreign exchange market is carried out through one of these accounts, it becomes a clearing account and must be registered with the Bank of the Republic in accordance with article 56 of external resolution No. 8 of 2000, adopted by the Board of the Bank of the Republic, and the terms and conditions laid down in chapter 8, section 8.2, of external regulatory circular DCIN-83.

[5] Goods imports and exports; foreign borrowing transactions by residents of Colombia, as well as the financial costs inherent in them; foreign capital investments in Colombia, including the associated returns; Colombian capital investments abroad, including the associated returns; financial investments in foreign-issued securities and assets located abroad, including the associated returns, except where the investments are made using foreign currency arising from transactions that do not have to be channelled through the foreign exchange market; collateral and guarantees in foreign currency; derivative transactions.

[6] Foreign exchange brokers are commercial banks, financial corporations, finance companies, Financiera de Desarrollo Nacional S.A., Banco de Comercio Exterior de Colombia S.A. (BANCOLDEX), financial cooperatives, stockbroking companies, and foreign exchange intermediaries and special financial services companies (previously bureaux de change).

and clearing accounts), all entities subject to supervision, including foreign exchange brokers, are required by article 120 of the Organic Statute of the Financial System to adopt measures to prevent and detect money-laundering.

- Act No. 1121 of 2006 amended the Organic Statute of the Financial System in order to include general regulations for the detection, investigation and punishment of the financing of terrorism. Furthermore, in April 2007, the Superintendence of Finance of Colombia issued instructions on managing the risk of money-laundering and financing of terrorism. In particular, it established that, with effect from January 2008, all entities supervised must have implemented a risk management system known as the "System for managing money-laundering and terrorist financing risk". In addition, it established the minimum parameters that supervised entities must meet in developing and implementing that system.

- On 8 July 2011, the Superintendence of Finance issued circular letter No. 65, which stipulates that supervised entities, their directors and their officials must strictly comply with the obligations laid down in title I, chapter XI of external circular No. 007 of 1996 concerning the system for managing money-laundering and terrorist financing risk, when concluding transactions in the capacity of foreign exchange brokers.

- According to this regulation, all entities subject to supervision are obliged to prevent the proceeds of activities linked to money-laundering and/or the financing of terrorism from flowing into or out of the financial system, regardless of the nature of the transaction.

- In external regulatory circular DCIN-83, the Bank of the Republic establishes the obligation of foreign exchange brokers to "obtain adequate know-your-client information as part of their duty to monitor and prevent criminal activities, so that they are able, if so required, to inform the authorities controlling and overseeing the foreign exchange regime of the basic characteristics of the foreign exchange transaction for which they are acting as broker, in accordance with articles 102-107 of the Organic Statute of the Financial System on the prevention of criminal activities, articles 39-44 of Act No. 190 of 1995 and articles 9 and 11 of Act No. 526 of 1999, as well as with other regulations amending or supplementing that legislation".

Superintendence of Finance of Colombia:

- In 2006, the Superintendence established a procedure for complying with every resolution adopted by the United Nations Security Council that is brought to the attention of Colombia.

  The procedure was strengthened by the conclusion in September 2012 of an inter-agency agreement[7] signed by the Ministry of Foreign Affairs, the State

[7] Inter-agency agreement concluded by the Ministry of Foreign Affairs, the State Attorney's Office, the Superintendence of Finance of Colombia and the Information and Financial Analysis Unit. Clause 5: Obligations of the Superintendence of Finance of Colombia. (1) Once it has been notified of the same by the Ministry of Foreign Affairs or the State Attorney's Office, the Superintendence of Finance shall convey, to all legal representatives and auditors of the entities subject to its supervision, the decisions adopted by the United Nations Security Council or the State Attorney's Office. (2) After this Agreement has been signed, the Superintendence of Finance

Attorney's Office, the Superintendence of Finance of Colombia and the Information and Financial Analysis Unit, clause 5 of which lays down the obligations of the Superintendence of Finance.

– In accordance with the relevant legislation[8] applicable to the entities that it supervises and taking into account that article 20 of Act No. 1121 of 2006, which issues the regulations for the prevention, detection, investigation and punishment of the financing of terrorism and other provisions, specifically refers to the international lists that are binding for Colombia, including those contained in the various resolutions adopted by the United Nations Security Council, the Superintendence of Finance of Colombia adopted the following measures within its area of competence:

(a) Exercising its power to give instructions, which is established by article 326 of the Organic Statute of the Financial System, it issued instructions concerning the system for managing money-laundering and terrorist financing risk that must be adopted by the entities supervised, which are contained in title I, chapter XI of external circular No. 007 of 1996 (basic legislative circular). The instructions are designed to ensure that the supervised entities are able to avoid being used to make the proceeds of criminal activities appear legal or to channel resources into terrorist activities.

The instructions establish the requirement to "Comply with the obligations relating to international lists that are binding for Colombia in accordance with international law and take the necessary steps to ensure that those lists are consulted before a potential client is linked to the entity".[9]

For the purposes of the above, in accordance with article 20 of Act No. 1121 of 2006, which regulates the procedure for publishing and complying with obligations relating to the international lists that are binding for Colombia under international law, supervised entities shall notify the relevant authorities indicated in that Act, or any that replace them, so that they can take the appropriate measures.

(b) In accordance with the above-mentioned legislation, the lists of natural and/or juridical persons mentioned in the various resolutions adopted by the United Nations Security Council, which are submitted to the Superintendence of Finance by the Ministry of Foreign Affairs, shall be brought to the attention of the supervised entities by means of a virtual entity established for the purpose of exchanging information, so that they can take the appropriate measures.

(c) In order to comply with its obligations under clause 5 of the inter-agency agreement mentioned above, which is reproduced in footnote 2 of

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shall give instructions to the entities subject to supervision concerning the procedure and time limit for submitting information to the attorney appointed by the State Attorney's Office, bearing in mind that the time limit may not be more than three days. Time limit: The Superintendence of Finance shall convey the above information within three days of receiving notification.

[8] Article 20 of Act No. 1121 of 29 December 2006; articles 323 and 441 of the Penal Code; articles 102-105 of the Organic Statute of the Financial System (Decree No. 663 of 1993).

[9] Title I, chapter XI, section 4.2.2(d) of the basic legislative circular (external circular No. 007 of 1996) issued by the Superintendence of Finance of Colombia.

this document, the Superintendence of Finance issued circular letter No. 85 of 2012 instructing supervised entities to comply with a given procedure and time limit for submitting information to the State Attorney's Office.